Filed 9/28/12 In re N.C. CA4/3

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re N.C, a Person Coming Under the Juvenile Court Law.	
ORANGE COUNTY SOCIAL SERVICES AGENCY, Plaintiff and Respondent, v. M.R., Defendant and Appellant.	G046519 (Super. Ct. No. DP017492) O P I N I O N

Appeal from an order of the Superior Court of Orange County, Richard Y. Lee, Judge. Affirmed.

Liana Serobian, under appointment by the Court of Appeal, for Defendant and Appellant.

Nicholas S. Chrisos, County Counsel, and Karen L. Christensen and Aurelio Torre, Deputy County Counsel, for Plaintiff and Respondent.

No appearance for Minor.

* * *

INTRODUCTION

M.R. (Mother) appeals, following an order terminating her parental rights to her now eight-year-old son, N.C. Mother contends the juvenile court erred by denying her request that the court order N.C. to testify at the permanency hearing. She also contends the juvenile court erred by finding the parent-child relationship exception to the termination of parental rights under Welfare and Institutions Code section 366.26, subdivision (c)(1)(B)(i) inapplicable. (All further statutory references are to the Welfare and Institutions Code.)

We affirm. For the reasons we explain *post*, the juvenile court did not err by denying Mother's request to have N.C. testify. As Mother did not satisfy her burden to show that severing her relationship with N.C. would deprive him of a "substantial, positive emotional attachment such that the child would be greatly harmed," the court did not err by finding the parent-child relationship exception inapplicable. (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 575.)

BACKGROUND

I.

ORANGE COUNTY SOCIAL SERVICES AGENCY FILES AMENDED JUVENILE DEPENDENCY PETITION; MOTHER PLEADS NOLO CONTENDERE.

In September 2008, Mother was arrested after she drove then four-year-old N.C. in a car containing methamphetamine and drug paraphernalia; N.C. was taken into protective custody. The Orange County Social Services Agency (SSA) filed a juvenile dependency petition which, as amended in October 2008 (the petition), alleged N.C. came within the jurisdiction of the juvenile court under section 300, subdivision (b) (failure to protect) and subdivision (g) (no provision for support).

The petition alleged that during a traffic stop of the car Mother was driving, police officers found 12.29 grams of methamphetamine "on [M]other's person; two

baggies of 0.62 grams and .027 grams of methamphetamine; one small glass jar of 0.12 grams of methamphetamine; three empty containers with suspected methamphetamine residue; three 4 inch glass methamphetamine pipes; an electronic scale; and one syringe." In addition, the passenger in the car Mother was driving "was found to have a switchblade knife on his person."

The petition further alleged, "[o]n numerous, unspecified dates, . . . [M]other engaged in the use of illegal substances, including but not limited to methamphetamine, while being the sole and primary caretaker for [N.C.]." It also alleged Mother had a history of drug-related behavior since 2000. The petition alleged N.C.'s father, C.C. (Father), had a history of drug-related behavior since 1991, including, but not limited to, the use of marijuana, and also had a criminal history which included the commission of violent offenses.[1]

At the jurisdiction hearing in October 2008, Mother pleaded nolo contendere to the allegations of the petition. The juvenile court found the allegations of the petition true by a preponderance of the evidence. At the disposition hearing, the juvenile court declared N.C. a dependent child of the court and vested custody of him with SSA. The court found "reunification services need not be provided to mother."

II.

N.C. IS PLACED WITH HIS PATERNAL GRANDPARENTS WHILE MOTHER IS INCARCERATED; THE JUVENILE COURT GRANTS MOTHER 60-DAY TRIAL VISIT; N.C. IS TAKEN BACK INTO PROTECTIVE CUSTODY; THE COURT SETS PERMANENCY HEARING.

In January 2009, N.C. was placed with his paternal grandparents. Mother was incarcerated from September 2008 through mid-December 2009. During Mother's incarceration, the juvenile court set a permanency hearing.

[1] Father is not a party to this appeal and is only referenced in this opinion to provide relevant background.

Mother filed a section 388 petition asking the juvenile court to vacate the permanency hearing and order reunification services for her. In January 2010, the court granted Mother's section 388 petition, vacated the permanency hearing, and ordered reunification services for Mother.

On April 20, 2010, N.C. was placed with Mother for a 60-day trial visit. In May, however, after consuming alcohol at a bar, Mother drove N.C. in her car; N.C. was taken into protective custody on May 20. SSA filed a section 388 petition requesting that the court terminate reunification services as to Mother and set a permanency hearing.

Before the hearing on SSA's section 388 petition, the parties stipulated that (1) "Mother has consumed alcohol on a regular basis since her release from state prison . . . through at least May 2010"; (2) "[o]n at least one occasion, mother has transported [N.C.] in her vehicle with alcohol in her system"; (3) the court should terminate reunification services and set a permanency hearing at which "SSA's recommendation . . . will be limited to legal guardianship"; and (4) "SSA or any party reserves the right to seek a more permanent plan of adoption at any subsequent statutory hearing."

The juvenile court granted SSA's section 388 motion, and thus ordered reunification services as to Mother terminated and set a permanency hearing.

III.

THE PERMANENCY HEARING REPORT AND ADDENDUM REPORTS; THE JUVENILE COURT ORDERS THE PATERNAL GRANDPARENTS TO BE N.C.'S LEGAL GUARDIANS.

SSA filed a permanency report dated November 17, 2010, which stated that N.C. had limited contact with Mother throughout the period of her incarceration from September 2008 until mid-December 2009. N.C. began visiting with Mother once a month beginning at the end of January until March 2010. N.C. was placed with Mother from April 20 to May 20. After N.C. was removed from her care, Mother initially had

monitored visits three times per week for one hour each, which increased to two weekly monitored visits of two hours each.

The permanency report further stated that the paternal grandparents (who live in Nevada) expressed interest in visiting N.C., and wished to care for him on a long-term basis. N.C. expressed an interest in returning to their care. (He had previously expressed reluctance at having contact with them, but had since changed his mind and wished to visit with them.) N.C. visited with his paternal grandparents on October 12, 2010, and appeared to enjoy himself. He expressed interest in future visits with them and spoke with them weekly. In October 2010, it was "very apparent that [N.C.] loves [his paternal grandparents] and he lights up like a light bulb when they are on the phone or around. . . . He . . . said he was sad that the visit ended and he couldn't wait to go back and live with [them]."

An addendum report, dated January 12, 2011, contained the opinion of one of N.C.'s caregivers that N.C. needed and craved stability and a permanent placement. She described him as smart, articulate, and adorable.

In February 2011, the juvenile court ordered that a bonding study be performed as to N.C. in relation to his then current caregiver, the paternal grandparents, and Mother. An addendum report, dated March 21, 2011, contained the findings of the doctor who conducted the bonding study. He observed that N.C. calls Mother by her first name and would be redirected by Mother to call her "mom." N.C. engaged with her freely and was excited to interact with her. Their interactions were respectful and N.C. appeared comfortable with Mother. The doctor opined that N.C. would benefit from maintaining contact with Mother, but that he would also benefit from "a consistent placement that would provide [him] with perm[a]nency and stability." The doctor observed that the paternal grandparents' judgment was sound and that they were committed to improving their parenting techniques and providing N.C. a permanent home. N.C. was relaxed with and respectful toward his paternal grandparents. He sat

physically close to both of them during activities and held the paternal grandmother's hand when introductions were made. N.C. appeared to enjoy the security and comfort his paternal grandparents provided. The doctor noted, "there is evidence to indicate the presence of a strong positive emo[t]ional interdependence between [N.C.] and the grandparents."

In the March 21, 2011 addendum report, the social worker stated: "The prospective adoptive mother and father are committed and very loving paternal grandparents who are determined to give their grandson . . . a stable, loving, and stimulating childhood as possible. [The paternal grandmother] has expressed her wanting to protect [N.C.] from harm, and desire to assist him reach his full potential." The social worker further noted that the paternal grandparents "had been very involved in [N.C.]'s life. Both parties have had consistent contact and a loving relationship with [N.C.]. Often times the [paternal grandparents] would travel to California to spend time with [N.C.] approximately one time per month, in addition to frequent contact via telephone and written correspondence." The social worker also noted the paternal grandparents had been able to consistently meet N.C.'s emotional and physical needs. She stated N.C. understands that he cannot return to his parents' care, but he enjoyed living with his paternal grandparents and asked, "is it ok that I stay here with them forever?" The social worker also stated the paternal grandparents love N.C. and their primary concern is his safety and well-being. They wished to adopt him and provide him a stable and loving environment.

At the permanency hearing on March 21, 2011, the juvenile court concluded that adoption and the termination of parental rights were not in N.C.'s best interest. The court selected legal guardianship as the appropriate permanent plan of placement and ordered the paternal grandparents to be N.C.'s legal guardians.

IV.

N.C. Is Placed with His Paternal Grandparents in Nevada; Mother Participates in Visitation with N.C.; the Juvenile Court Sets a Permanency Hearing After Mother's Arrest for, Inter Alia, Possession of Methamphetamine and Drug Paraphernalia; the Permanency Hearing.

N.C. was placed with his paternal grandparents in Nevada. A status review report, dated September 19, 2011, reiterated the paternal grandparents' love for N.C. and wish to adopt him and provide a permanent home for him. In that report, the social worker stated N.C. appeared to be adjusting well to his placement with his paternal grandparents, appeared happy and content, and did not express any dissatisfaction with the placement. N.C. stated he liked living with his paternal grandparents although he missed California. The report further stated the paternal grandparents established consistent and structured routines in their home and provided N.C. a safe and stable environment.

The status review report stated Mother participated in two four-hour visits each month with N.C. in Nevada. Although Mother requested more visits, she was frequently late to visits. N.C. did not request more visits, appeared ready to end visits at the scheduled time, and did not display any emotional or behavioral outbursts at the end of the visits. Mother's tardiness to visits caused N.C. anxiety; she was sometimes over an hour late for a scheduled visit. SSA denied Mother's request for more visits because of N.C.'s legal guardianship status, the paternal grandparents' request to adopt him, his "current stability" in his placement with the paternal grandparents, and Mother's frequent tardiness to visits.

The juvenile court had approved telephonic contact between Mother and N.C. twice weekly for 15 minutes each. Mother and N.C. did not use all of the allotted time for the telephonic visits. In the status review report, SSA recommended the juvenile

court set another permanency hearing and consider adoption as the permanent plan for N.C.

SSA filed a section 388 petition, dated December 14, 2011, seeking an order reducing Mother's visitation to one four-hour visit each month because of her relapse, recent arrest (described in a report, discussed *post*), and history of unresolved drug abuse and criminal behavior. The section 388 petition stated that during visits, Mother would nod off, appear sleepy, and spend long periods of time in the restroom. The juvenile court granted the section 388 petition and reduced Mother's visitation to one four-hour visit every three weeks.

Pursuant to SSA's recommendation, the juvenile court set a permanency hearing to consider adoption as the permanent plan for N.C. In a permanency hearing report dated January 17, 2012, the social worker stated the parental grandparents have remained constant figures in N.C.'s life, have had a loving relationship with him, and have met his emotional and physical needs. The social worker reported that on September 26, 2011, Mother was arrested for possession of methamphetamine, possession of psilocybin mushrooms, possession of a fictitious driver's license, possession of a fictitious bill, petty theft, and possession of drug paraphernalia.

The addendum report, dated January 17, 2012, quoted a letter from N.C.'s therapist, summarizing N.C.'s individual therapy sessions. The therapist stated N.C. presented attention difficulties, anxiety, and difficulty in communicating feelings. She recommended that he not be subjected to testifying at the permanency hearing because it would cause him "extreme anxiety" and the possibility of regressing. She stated that if his testimony was "crucial," she recommended it be given in chambers.

At the permanency hearing, Mother requested that N.C. be required to testify; SSA and N.C. objected. The juvenile court denied Mother's request.

At the permanency hearing, senior social worker Caroline Ano testified it did not appear to her that Mother had a significant relationship or bond with N.C. Ano

testified that during a telephone conversation, she asked N.C. if he would like to live with his paternal grandparents for the long term and N.C. said he would be happy to live with them and it would be great. She reiterated that N.C. would become anxious when Mother was late to visits. Ano also stated that the majority of N.C.'s visits with Mother occurred at "fun" locations such as a bowling alley, park, or movie theater. She testified that N.C. was "very happy, doing very well, very stable in the home" of the paternal grandparents and she did not believe the termination of Mother's parental rights would be detrimental to N.C.

Ano testified that in December 2011, she and N.C. discussed how he felt about residing with the paternal grandparents on a long-term basis. They discussed where N.C. was living and with whom he was living, and further discussed the possibility of the current arrangement being his "long-term forever home." N.C. expressed that such an arrangement "would be great" and said he was "very happy there." Ano did not discuss the termination of Mother's visitation with N.C. in light of N.C.'s therapist's statements.

The maternal grandmother and Mother's boyfriend also testified at the permanency hearing; the juvenile court stated it did not find their testimony to be credible.

V.

THE JUVENILE COURT TERMINATES MOTHER'S PARENTAL RIGHTS; MOTHER APPEALS.

The juvenile court found it likely N.C. would be adopted, and ordered Mother's and Father's parental rights terminated. The court found that the provisions of section 366.26, subdivision (c)(1)(A) and (B)(i) through (vi) did not apply and that the adoption of N.C. and termination of parental rights were in his best interests. The court issued an order stating the court's findings at the permanency hearing. Mother appealed.

DISCUSSION

I.

THE JUVENILE COURT DID NOT ERR BY DENYING MOTHER'S REQUEST TO CALL N.C. AS A WITNESS AT THE PERMANENCY HEARING.

Mother contends the juvenile court erred by denying her request to call N.C. to testify at the permanency hearing. Mother's argument is without merit.

SSA's addendum report, dated January 17, 2012, quoted the following statement contained in a letter to Ano from N.C.'s therapist: "It has been brought to my attention that there may be a need for N[.C.] to testify in court at some point in the future. Children with severe mental health issues and a high degree of anxiety tend to regress when exposed to stressful situations. It is my recommendation that N[.C.] not be subjected to testifying. I believe it would cause extreme anxiety and distress and exacerbate his current symptoms. If his testimony is crucial, I would recommend he be interviewed by the judge in private chambers."

At the permanency hearing, Mother requested the court's permission to call N.C. as a witness. The court asked Mother's counsel: "[F]or what purpose would you be calling the child N[.C.]? What is your offer of proof as to what he would testify to?" Mother's counsel responded: "I'm under the information and belief that when called to testify the child N[.C.] would be stating to the court that he, in fact, has a substantial bond with his mother; that he does, in fact, love his mother a great deal; that he would suffer, even though not necessarily those words, there would be evidence elicited from him to demonstrate that he would suffer emotionally if his visitation with his mother was to be terminated to such that it would—it could arguably outweigh the benefit he may obtain from legal permanence of adoption."

SSA opposed Mother's request, arguing N.C.'s testimony was not necessary in light of the existing evidence of his desires and "inappropriate considering

N[.C.]'s fragile state." N.C.'s counsel also opposed Mother's request, stating: "I think it's clear from the evidence and the reports what N[.C.]'s feelings are regarding a long-term placement with his current caretakers by his own statements, but also that the court can infer as case law allows from the fact that N[.C.] is doing extremely well. He is thriving, he's getting good grades, he's an enthusiastic, enjoyable child. And the concern that even contemplating coming to testify is causing him I think outweighs the evidence that N[.C.] himself could present that the court already has."

The court stated: "I have considered the matter. I have reviewed the cases referred to by county counsel. I am willing to accept as true for purposes of this hearing that N[.C.] would say, if called to the witness stand, that he does love his mother. I'm willing also to accept as true that N[.C.] would say that he enjoys his visits with his mother, and I'm also willing to accept as true that N[.C.] would say that he looks forward to visiting with his mother. [¶] That having been said I do have grave concerns about N[.C.] testifying. We have before us on page 3 the therapist's strong recommendation that he not be subjected to testify. She specifically states, and I quote, 'I believe it would cause extreme anxiety and distress and exacerbate his current symptoms.' [¶] She then goes on to say, 'if his testimony is crucial, I would recommend he be interviewed by the judge in private chambers.' [¶] I interpret that to mean that if you are going to subject N[.C.] to this extreme anxiety and distress, the better option would be to do it in chambers. [¶] Under these circumstances, given my obligations under the law, I am required to consider the wishes of the child, but the case law gives me the discretion to accept that information by means other than direct testimony. I think there is sufficient other evidence that the court can glean N[.C.]'s desires and wishes in this case, and as a result the court is going to deny mother's request to call N[.C.] as a witness. I think it would be extremely detrimental to N[.C.] to have him testify."

In the order stating its findings following the permanency hearing, the court stated in part: "Although the court did not take testimony from N[.C.], the court has

considered his wishes based on information from the reports and testimony of the witnesses. It is apparent that N[.C.] thinks it would be 'great' to stay with the paternal grandparents for the long-term and he has asked previously if he can stay with them forever. N[.C.] has indicated that he likes living with the paternal grandparents, though he does sometimes miss California. Consistent with *In re Amanda D.*, 55 Cal.App.4th 813 (1997), the court has considered the wishes of this seven year-old minor." (Italics added.)

The juvenile court did not err by denying Mother's request. In *In re Amanda D.* (1997) 55 Cal.App.4th 813, 820, the appellate court stated: "Section 366.26, subdivision (h) provides the court must '"consider the child's wishes to the extent ascertainable"' prior to terminating parental rights. [Citation.] But the evidence need not be in the form of direct testimony in court or chambers; it can be found in court reports prepared for the hearing. [Citation.] And [the parent]'s assertion the court must specifically ask how the child feels about ending the parental relationship is just plain wrong. As the [*In re*] *Leo M.* [(1993) 19 Cal.App.4th 1583] court aptly stated, '[I]n honoring [the minors'] human dignity . . . we should not carelessly impose upon them decisions which are heavy burdens even for those given the ultimate responsibility to decide. To ask children with whom they prefer to live or to ascertain what they wish through other evidence is one thing. To ask those children to choose whether they ever see their natural parent again or to give voice to approving that termination is a significantly different prospect. . . . [W]e conclude that in considering the child's expression of preferences, it is *not required* that the child specifically understand the proceeding is in the nature of a termination of parental rights.'" The appellate court further stated: "What the court must strive to do is 'to explore the minor's feelings regarding his/her biological parents, foster parents, and prospective adoptive parents, if any, as well as his/her current living arrangements. . . . [A]n attempt should be made to obtain this information so that the court will have before it some evidence of the minor's

feelings from which it can then infer his/her wishes regarding the issue confronting the court.'" (*In re Amanda D.*, *supra*, at p. 820.)

The record contains ample evidence of N.C.'s wishes and shows the juvenile court considered that evidence in making its findings. In response to Mother's counsel's offer of proof regarding the necessity of N.C.'s testimony, the juvenile court stated that for the purpose of the permanency hearing, it accepted as true N.C. loved Mother and enjoyed visiting with her and looked forward to visits. The court was not required to elicit testimony from N.C., describing how he would feel about ending the parental relationship with Mother, particularly in light of the evidence of N.C.'s anxiety issues. (*In re Amanda D.*, *supra*, 55 Cal.App.4th at p. 820.)

We further observe that N.C.'s counsel, who is directed by statute to interview clients who are four years of age or older "to determine the child's wishes and . . . [to] advise the court of the child's wishes" (§ 317, subd. (e)(2)), requested termination of parental rights. As N.C. was seven years old at the time of the permanency hearing, in the absence of any evidence to the contrary, we presume counsel appointed to represent him "complied with the code's mandate and consulted, to the extent feasible, with [N.C.] before urging the juvenile court to terminate parenthood. Accordingly, the juvenile court could properly conclude [N.C.] . . . did not have a contrary wish. [Citation.]" (*In re Jesse B.* (1992) 8 Cal.App.4th 845, 853.)

Even if the juvenile court erred by refusing to order N.C. to testify at the permanency hearing, Mother cannot show prejudice. As discussed in detail *post*, the record does not show N.C. would have testified he had such a significant parental bond with Mother that the termination of her parental rights would greatly harm him. (*In re Autumn H.*, *supra*, 27 Cal.App.4th at pp. 575-576.)

Citing *In re Amy M.* (1991) 232 Cal.App.3d 849, Mother contends the juvenile court's ruling violated her right to due process. "Different levels of due process protection apply at different stages of dependency proceedings." (*In re Thomas R.* (2006)

145 Cal.App.4th 726, 733.) At the permanency hearing, due process "'requires, in particular circumstances, a "meaningful opportunity to cross-examine and controvert the contents of the report"' *if it is relevant to the issues before the court*. [Citations.]" (*Ibid.*) "'The standard of review where a parent is deprived of a due process right is whether the error was harmless beyond a reasonable doubt. [Citation.]'" (*M.T. v. Superior Court* (2009) 178 Cal.App.4th 1170, 1182.)

Mother chose not to testify at the permanency hearing. She was permitted to introduce the testimony of N.C.'s maternal grandmother and Mother's boyfriend, regarding the quality of Mother's visits and relationship with N.C. Mother's counsel also cross-examined Ano. SSA's reports containing N.C.'s statements were also before the court. This case is therefore distinguishable from *In re Amy M.*, *supra*, 232 Cal.App.3d at page 868, in which the appellate court noted the child's testimony was necessary because there were no reports containing the child's statements which could have substituted for his testimony. Beyond a reasonable doubt, the proposed testimony of N.C. would not have altered the result of the hearing. Thus, we find no denial of due process.

II.

THE JUVENILE COURT DID NOT ERR BY FINDING THE PARENT-CHILD RELATIONSHIP EXCEPTION UNDER SECTION 366.26, SUBDIVISION (c)(1)(B)(i) INAPPLICABLE.

Mother contends the juvenile court erred by failing to find the parent-child relationship exception to the termination of parental rights applicable. Section 366.26, subdivision (c)(1)(B)(i) allows the juvenile court to decline to terminate parental rights over an adoptable child if it finds "a compelling reason for determining that termination would be detrimental to the child" because "[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." Mother had the burden of proving both prongs of the parent-child

relationship exception were satisfied. (*In re L. Y. L.* (2002) 101 Cal.App.4th 942, 949.) We consider whether substantial evidence supported the juvenile court's determination the parent-child relationship exception did not apply. (*In re Cliffton B.* (2000) 81 Cal.App.4th 415, 424-425.)[2]

At the permanency hearing, the juvenile court found that termination of Mother's parental rights would not be detrimental to N.C. As to the first prong of the parent-child relationship exception, in the order stating its findings, the court stated, "although the mother was regularly tardy to her visits, she has maintained consistent and regular visitation and contact with the child recently."

The juvenile court found, however, Mother failed to meet her burden as to the second prong of showing N.C. would benefit from continuing his relationship with her within the meaning of section 366.26, subdivision (c)(1)(B)(i).

In *In re Autumn H.*, *supra*, 27 Cal.App.4th at pages 575-576, the court stated: "In the context of the dependency scheme prescribed by the Legislature, we interpret the 'benefit from continuing the [parent/child] relationship' exception to mean the relationship promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents. In other words, the court balances the strength and quality of the natural parent/child relationship in a tenuous placement against the security and the sense of belonging a new family would confer. If severing the natural parent/child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly

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[2] In *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351, the appellate court acknowledged that courts have "routinely applied the substantial evidence test" to the juvenile court's finding regarding the applicability of the parent-child relationship exception. The appellate court in *In re Jasmine D.* stated that the abuse of discretion standard is a more appropriate standard even though "[t]he practical differences between the two standards of review are not significant." (*Ibid.*) Under either standard, Mother's argument fails for the same reasons.

harmed, the preference for adoption is overcome and the natural parent's rights are not terminated. [¶] Interaction between natural parent and child will always confer some incidental benefit to the child. The significant attachment from child to parent results from the adult's attention to the child's needs for physical care, nourishment, comfort, affection and stimulation. [Citation.] The relationship arises from day-to-day interaction, companionship and shared experiences. [Citation.] The exception applies only where the court finds regular visits and contact have continued or developed a significant, positive, emotional attachment from child to parent. [¶] At the time the court makes its determination, the parent and child have been in the dependency process for 12 months or longer, during which time the nature and extent of the particular relationship should be apparent. Social workers, interim caretakers and health professionals will have observed the parent and child interact and provided information to the court. The exception must be examined on a case-by-case basis, taking into account the many variables which affect a parent/child bond. The age of the child, the portion of the child's life spent in the parent's custody, the 'positive' or 'negative' effect of interaction between parent and child, and the child's particular needs are some of the variables which logically affect a parent/child bond."

Here, the juvenile court explained its finding of the inapplicability of the parent-child relationship exception, stating: "The court acknowledges that [M]other loves [N.C.]. The court also acknowledges and accepts as true that N[.C.] has expressed love for [M]other verbally and in the way of cards and physical displays of affection such as hugs and kisses. However, that alone is insufficient. Although the visitation appears to have been appropriate, N[.C.] has not asked for an increase of visits. . . . Further, it is clear that the majority of recent visits between [M]other and [N.C.] have been playful fun activities: at a park, at a dinner show . . . , miniature golf, movies, bowling, Adventure Dome, etc. These visits appear to be more akin to 'playdates' than beneficial parent-child interactions. [¶] N[.C.] appears to have enjoyed himself on these visits and rightly so, but

these visits do not demonstrate that the detriment N[.C.] would suffer from terminating the parent/child relationship outweighs the benefit of adoption in this matter. While the court agrees generally that N[.C.] would derive some benefit from having a sober and consistent mother figure in his life and that N[.C.] has enjoyed his visits with [M]other, the court cannot conclude that N[.C.] would suffer substantial harm of the kind discussed in the above cases if parental rights were terminated."

The juvenile court further explained: "[M]other attended her visits but while at her visits, she was often sleepy, or disappeared for lengthy periods of time without any reasonable explanation. [M]other often arrived late at her visits, even up to an hour and a half late, causing N[.C.] added unnecessary anxiety. Despite knowing that her repeated tardiness caused him anxiety, [M]other continued to arrive late. In balancing the strength and quality of the natural parent-child relationship in this context against the security and the sense of belonging a new family would confer, the choice is clear and N[.C.] should be freed for adoption."

More than substantial evidence supported the juvenile court's finding Mother failed to carry her burden of showing N.C. would benefit from continuing his relationship with her. While the record shows Mother loves N.C. and he loves her, Mother's visits and contacts with N.C. have not continued or developed a significant, positive, emotional attachment from child to parent within the meaning of the statute. The record shows the paternal grandparents (and prospective adoptive parents) have occupied a parental role in N.C's life. They have provided him a stable, nurturing home. N.C. has not requested an increase in visitation with Mother and stated he would like to stay with the paternal grandparents forever, further supporting the finding that the termination of Mother's parental rights would not deprive him of a "substantial, positive emotional attachment such that [he] would be greatly harmed." (*In re Autumn H., supra*, 27 Cal.App.4th at p. 575.) As substantial evidence supports the juvenile court's finding the parent-child relationship exception was inapplicable, we find no error.

DISPOSITION

The order is affirmed.

FYBEL, J.

WE CONCUR:

O'LEARY, P. J.

MOORE, J.